

Practice Book Revisions

Superior Court

January 2, 2007

NOTICE

SUPERIOR COURT

Notice is hereby given that on December 19, 2006 the judges of the Superior Court adopted the Practice Book revisions which are contained herein, to become effective on March 12, 2007.

Attest:

Carl E. Testo

Director of Legal Services

INTRODUCTION

Contained herein are amendments to the Superior Court rules. These amendments are indicated by brackets for deletions and underlines for added language. The designation “NEW” is printed with the title of each new rule. This material should be used as a supplement to the Practice Book until the 2008 edition of the Practice Book becomes available.

Commentaries to the Superior Court rules are also contained herein. The commentaries are included for informational purposes only.

Rules Committee of the
Superior Court

AMENDMENT TO THE CIVIL RULES

(NEW) Sec. 23-68. Where Presence of Person May Be By Means of an Interactive Audiovisual Device

(a) The appearance of an incarcerated individual for any proceeding set forth in subsection (b) of this section may, in the discretion of the judicial authority on motion of a party or on its own motion, be made by means of an interactive audiovisual device. Such audiovisual device must operate so that such person and his or her attorney, if any, and the judicial authority can see and communicate with each other simultaneously. In addition, a procedure by which such person and his or her attorney can confer in private must be provided. For purposes of this section, judicial authority includes family support magistrates.

(b) Proceedings in which an incarcerated individual may appear by means of an interactive audiovisual device are limited to civil and family (1) proceedings prior to trial including, but not limited to, short calendar, prejudgment remedy, lis pendens, mechanics lien and other discovery and procedural hearings, case evaluation conferences, pretrials, alternative dispute resolutions, status conferences, trial management conferences, (2) hearings on post-trial motions and (3) matters within the jurisdiction of the family support magistrate division.

(c) Unless otherwise required by law or unless otherwise ordered by the judicial authority, prior to any proceeding in which a person appears by means of an interactive audiovisual device, copies of all documents which may be offered at the proceeding shall be provided to all counsel and pro se parties in advance of the proceeding.

(d) Nothing contained in this section shall be construed to establish a right for any incarcerated person to appear by means of an interactive audiovisual device.

COMMENTARY: Practice Book Section 23-40(b) currently permits the use of an interactive audiovisual device in habeas corpus proceedings arising from claims regarding conditions of confinement. The above new rule, new Section 44-10A and the revisions to Sections 25-39 and 44-10 will expand the use of such technology to certain additional civil matters and permit its use in certain family and criminal matters. These changes will enhance the safety of the public and court personnel and reduce state expenditures for prisoner transportation.

AMENDMENT TO THE FAMILY RULES

Sec. 25-39. Miscellaneous Rules

Except as otherwise provided in Section 25-51, the provisions of Sections 7-19, 17-20, 18-5, 18-9, 20-1, 20-3, [and] 23-67 and 23-68 of the rules of practice shall apply to family matters as defined in Section 25-1.

COMMENTARY: See the Commentary to new Section 23-68.

AMENDMENTS TO THE CRIMINAL RULES

Sec. 44-10. —Where Presence of Defendant Not Required

(a) Unless otherwise ordered by the judicial authority, a defendant need not be present in the following situations:

(1) In proceedings involving a corporation, a corporation being able to appear by counsel for all purposes;

(2) In prosecutions for offenses punishable by a fine in which the defendant pleads guilty or nolo contendere and pays the fine by mail;

(3) At any argument on a question of law or at any conference, except a disposition conference pursuant to Section 39-13;

(4) In proceedings involving a reduction of a sentence under Sections 43-21 and 43-22; and

(5) In proceedings in which the defendant otherwise waives his or her right to be present.

(b) If ordered to be present by the judicial authority or if required to be present for a disposition conference pursuant to subsection (a)(3) of this section the presence of the defendant may, in the discretion of the judicial authority and, in the case of such a disposition conference, with the consent of the defendant, be made by means of an interactive audiovisual device. Such audiovisual device must operate so that the defendant, his or her attorney, if any, and the judicial authority can see and communicate with each other simultaneously. In addition, a procedure by which the defendant and his or her attorney can confer in private must be provided.

COMMENTARY: See the Commentary to new Section 23-68.

(NEW) Sec. 44-10A. —Where Presence of Defendant May Be By Means of an Interactive Audiovisual Device

Unless otherwise ordered by the judicial authority, and in the discretion of the judicial authority, a defendant may be present by means of an interactive audiovisual device for the following proceedings:

- (1) Hearings concerning indigency pursuant to General Statutes § 52-259b;
- (2) Hearings concerning asset forfeiture, unless the testimony of witnesses is required;
- (3) Hearings regarding seized property, unless the testimony of witnesses is required;
- (4) With the defendant's consent, bail modification hearings pursuant to Section 38-14; and
- (5) With the defendant's consent, sentence review hearings pursuant to General Statutes § 51-195.

Such audiovisual device must operate so that the defendant, his or her attorney, if any, and the judicial authority can see and communicate with each other simultaneously. In addition, a procedure by which the defendant and his or her attorney can confer in private must be provided.

COMMENTARY: See the Commentary to new Section 23-68.
